

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
SPARTANBURG DIVISION

Brian Worsley,

Plaintiff,

vs.

Walmart, Inc. and Walmart Stores East, LP and  
Walmart Supercenter, dba Walmart  
Supercenter #638,

Defendants.

Civil Action No.: \_\_\_\_\_

**NOTICE OF REMOVAL**

1. Defendant Walmart, Inc., Walmart Stores East, LP and Walmart Supercenter, dba Walmart Supercenter #638 (hereinafter, “Defendants”) file this Notice of Removal of the above-titled action from the Court of Common Pleas of Cherokee County, South Carolina, to the United States District Court for the District of South Carolina, Spartanburg Division, pursuant to 28 U.S.C. § 1441.

2. The above-titled action was instituted by the Plaintiff against the Defendants by service of an Amended Summons and Complaint that were filed on January 6, 2021, in the Cherokee County Court of Common Pleas and served on Defendants via their registered agent, CT Corporation, on January 12, 2021. The action is currently pending in the Court of Common Pleas for Cherokee County, South Carolina, Case No. 2021-CP-11-00007. No further proceedings have been filed and the Amended Summons and Complaint constitute all process, pleadings or orders properly served in this action. Pursuant to 28 U.S.C. § 1446(a), Defendants file herewith a copy of the Amended Summons and Complaint.

3. There is jurisdiction over this removed action pursuant to 28 U.S.C. § 1441 because Plaintiff could have originally filed the action in this Court pursuant to 28 U.S.C. § 1332.

Specifically, this suit is removable because there is complete diversity of citizenship between Plaintiff and Defendants and, upon information and belief, based upon Plaintiff's claimed injuries and damages as set forth in his Amended Complaint, the amount in controversy in this action exceeds Seventy-Five Thousand and 00/100 Dollars (\$75,000.00), exclusive of interests and costs.

4. At the time of commencement of the action, Plaintiff was and still is a citizen and resident of North Carolina. Wal-Mart Stores East, L.P., which was the operator of the subject store at all times relevant to the present action, was at the time of the commencement of the action, and still is, a corporate entity organized and existing under the laws of a state other than South Carolina and having its principal place of business in a state other than South Carolina. Specifically, pursuant to 28 U.S.C. § 1332(c)(1), Wal-Mart Stores East, L.P. is a citizen of both Delaware and Arkansas, as it is a Delaware limited partnership with its principal place of business in Arkansas. The partners of Wal-Mart Stores East, L.P. are WSE Management, LLC (general partner) and WSE Investment, LLC (limited partner). Both are Delaware limited liability companies with their principal places of business in Arkansas. The sole member of WSE Management, LLC and WSE Investment, LLC is Wal-Mart Stores East, LLC, which is an Arkansas limited liability company with its principal place of business in Arkansas. Wal-Mart Stores East, LLC is a wholly-owned subsidiary of Walmart Inc., which is a Delaware corporation with its principal place of business in Arkansas.

5. Plaintiff's Amended Complaint arises from an alleged incident in which he asserts that on March 19, 2018, while repairing equipment at the store his foot went through the store floor. *See* Pl.'s Amend. Compl. at ¶¶ 6-7. Plaintiff alleges that Defendant was negligent in failing to discovery and warn Plaintiff of the dangerous condition Pl.'s Amend. Compl. at ¶ 18. Additionally, Plaintiff alleges that Walmart was negligent as the store is allegedly in violation of

building codes South Carolina statutes and OSHA. *See* Pl.'s Amend. Compl. at ¶ 33. Plaintiff further alleges that as a result of the alleged incident, he suffered serious, painful, and permanent injuries as well as a loss of earnings and earning capacity. *See* Pl.'s Amend. Compl. at ¶ 12. Plaintiff also asserts a claim for punitive damages. *See* Pl.'s Amend. Compl. at ¶ 36.

6. Based upon the allegations of Plaintiff's Amended Complaint, the amount in controversy in this matter exceeds the sum of Seventy-Five Thousand 00/100 Dollars (\$75,000.00), exclusive of interest and costs. Accordingly, said action is one over which the District Court of the United States has original jurisdiction under 28 U.S.C. § 1332 for the reasons set forth above.

7. Defendants hereby give counsel for the Plaintiff written notice of the removal of this action and will provide a copy of the filed Notice of Removal to the Clerk of Court for Greenville County, as required by 28 U.S.C. § 1446(d).

8. Defendants file this Notice of Removal within thirty (30) days of the receipt of Plaintiff's Amended Complaint in the state court action, which was the first pleading properly served upon Defendants setting forth Plaintiff's claims for relief.

WHEREFORE, Defendants respectfully submit this Notice of Removal this 11<sup>th</sup> day of February 2021.

*s/ Nashiba D. Boyd*

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